In the High Court of Punjab and Haryana at Chandigarh

Crl. Revision No. 856 of 1992
Date of decision: 08-08-2007

M/s Geeta Textile Processors and another

---Petitioners

Vs.

Punjab State Board for the Prevention and Control of Water Pollution

---Respondent

Coram: **HON'BLE MR. JUSTICE SURYA KANT**

Present: Mrs. G.K.Mann, Advocate,
for the petitioner No. 2

Mr.Rajesh Bhardwaj, DAG, Punjab.

Mr. Kulraj Rai, Law Officer Gr.I
for the Board.

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SURYA KANT J. (Oral)

This revision petition is directed against the judgment and order dated 15.10.1991 passed by the learned Judicial Magistrate Ist Class, Amritsar, whereby the petitioner No. 2 and the industrial unit run by him were found guilty of an offence under Section 25 of the Water (Prevention and Control of Pollution)Act, 1974 (in short 'the Act') and consequently, petitioner No. 2 was sentenced under Section 44 of the said Act to undergo RI for 1 ½ years and to pay a fine of Rs. 2,000/- as well as against the order and judgment dated 18.12.1992 whereby the petitioners' appeal against the above said order of conviction and sentence, was dismissed.

The facts may be noticed briefly.

Petitioner No. 2 was Proprietor of M/s Geeta Textile

Processors. The said unit was carrying on business of dyeing and finishing of clothes since the year 1984. An Engineer of the Punjab State Pollution Control Board (in short ' the Board') visited the above-stated industrial premises on 15.3.1986 and found that the industrial unit was discharging 40 Kilo Litres of trade effluents into the drain thereby causing water pollution. The aforesaid report led to the filing of a complaint under Section 44 read with Section 47 of the Act. On consideration of the evidence on record, both the Courts below have held that the industrial unit owned and run by petitioner No. 2 was causing water pollution by discharging trade effluents in the drain, as a consequence thereto, petitioner No. 2 was convicted and sentenced, as referred to above.

Aggrieved, the petitioners have approached this Court.

It may be noticed here that this Crl. Revision came up for hearing before this Court on 23.12.1992 and while admitting the same, the petitioner No. 2 was enlarged on bail.

I have heard the learned counsel for the parties and perused the impugned orders.

The impeachable evidence on record and the reports of the subject experts including Engineers of the Board leaves no doubt that dyeing unit of petitioner No. 2 was discharging trade effluent into a drain thereby causing water pollution including ground water. A perusal of the impugned judgments further reveals that the charges against the petitioners have been framed on the basis of documentary as well as oral evidence. In fact, petitioner No. 2 in his deposition under Section 313 Cr.P.C. could not categorically deny the allegation of discharge of untreated trade effluents in the drain and the main plea taken by him that he was not incharge of the

business at the relevant time.

In the light of the evidence on record and the plea taken by petitioner No. 2 which has been belied by the material on record, no interference in the concurrent finding of fact returned by the Courts below is called for by this Court in the exercise of its reversional jurisdiction.

Faced with this situation, learned counsel for petitioner No. 2 submits that the industrial unit concern stands closed since the year 1991 and is not functional at present. Learned counsel for the petitioner also placed on record and referred to the medical report in order to show that the health conditions of petitioner No. 2 are precarious. It appears that petitioner No. 2 is oftenly hospitalised.

As noticed earlier, petitioner no. 2 was enlarged on bail more than 15 years back. Nothing has been brought on record by the learned counsel for the respondent to suggest that petitioner No. 2 has ever misused the concession of bail.

Having regard to all the attending circumstances, noticed above, especially the total period of sentence awarded to the petitioner and the fact that the unit no longer exists, I am of the considered view that the ends of justice would be appropriately met by releasing the petitioner No. 2 on probation for a period of one year instead of ordering him to undergo sentence of RI awarded by the Courts below. Ordered accordingly. The aforestated order shall however be subject to enhancement of fine from Rs. 2,000/- to 10,000/-. The petitioner shall deposit the enhanced amount of fine and furnish the requisite bonds to the satisfaction of Chief Judicial Magistrate, Amritsar within a period of one month from the date of receipt of certified copy of this order. If petitioner No. 2 fails to deposit the

enhanced amount of fine, the order of sentence passed by the learned Judicial Magistrate Ist Class, Amritsar, would remain operative.

(SURYA KANT)
JUDGE

August 07, 2007
paramjit